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UNITED STATES DISTRICT COURT

DISTRICT OF OREGON

PORTLAND DIVISION

UNITED STATES OF AMERICA

Case No. 3:22-cr-00084-SI

v.

TONY DANIEL KLEIN,

Defendant.

**UNITED STATES' RESPONSE TO
DEFENDANT'S SUPPLEMENTAL
BRIEFING REGARDING THE
ADMISSIBILITY OF CERTAIN
EXPERT TESTIMONY UNDER
DAUBERT**

The United States hereby files this response to Defendant's Supplemental Briefing
Regarding the Admissibility of Certain Expert Testimony Under Daubert. (ECF No. 186).

**UNITED STATES' RESPONSE TO DEFENDANT'S SUPPLEMENTAL
BRIEFING REGARDING THE ADMISSIBILITY OF CERTAIN
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a. Neither Expert Intends to Provide Credibility Assessments of the Witnesses

In his supplemental briefing, the defense agrees that Ms. Alleyne will not provide expert testimony regarding the credibility of any of the witnesses at trial. The government confirms that Mr. Dumond will also avoid the same.

b. Victims with Mental Health and Trauma Backgrounds

The United States agrees that a witness's "extensive training and experience in the relevant field is sufficient to qualify a person as an expert." ECF No. 186, at 3. It is for this reason that the government maintains its objection that Ms. Alleyne is not qualified to testify about how the trauma backgrounds of many female inmates can contribute to a culture where false accusations may arise.

Defendant's most recent filing highlights that "[a]s part of her two decades of experience in the correctional field, she managed the Janet York Women's Facility in Connecticut. Moreover, she served on the PREA Audit Committee for three years, to ensure alignment with PREA standards." ECF No. 186, at 3. The defendant concludes that Ms. Alleyne "understands the complexity of the institution's employees and population dynamics." *Id.* Yet neither this explanation, the expert notice, nor Ms. Alleyne's one-page resume provide any additional details about any extensive training or experience with mental health and trauma, or more specifically, inmates with sexual abuse and trauma backgrounds. The defense does not proffer that Ms. Alleyne historically conducted any research into the issue, nor does he proffer that Ms. Alleyne's educational background would ground any such testimony.

This is distinctly different from her proposed testimony that "prison life contributes to a culture of false accusations." *Id.* at 4. Ms. Alleyne's 20-year background in prison settings,

trainings in those settings, and participating as a member of the PREA Audit Committee are sufficient to allow her to opine in such a manner. However, nothing received to date has indicated any experience, training, or education that would support her testimony as an expert on the effect of an inmate's mental health and trauma background on reporting of sexual abuse.

CONCLUSION

For the foregoing reasons, the United States respectfully requests that this Court limit Ms. Alleyne's testimony regarding the effect of an inmate's mental health and trauma background on reporting of sexual abuse.

Dated: June 27, 2023

Respectfully submitted,

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